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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,371	07/24/2003	Daniel B. Sachuk	249212022700	2455

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

EXAMINER

MILLER, BRIAN E

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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01/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,371

Applicant(s)

SACHUK, DANIEL B.

Examiner

Brian E. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-17, 19, 29-32, 34, 35 and 38-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-42 is/are allowed.
- 6) ☒ Claim(s) 12-17, 19, 29-32, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 12-17, 19, 29-32, 34-35 and 38-42 are now pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/4/08 has been entered.

Information Disclosure Statement

2. Regarding Applicant's IDS submitted on 1/4/08, the Examiner considers the documents submitted not to be of proper content for an IDS according to 37 C.F.R. § 1.97. Office Actions of co-pending applications are not considered to be public knowledge and should not be provided on an IDS so as to be printed on the face of a subsequent Patent. It is noted that a mailing date would not constitute a "publication date" any how.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 12-17, 19, 29-32, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanderheyden et al (US 6,078,481) in view of Hentrich (US 6,095,445). (As per claim 12) Vanderheyden et al discloses, with respect to FIGs. 1-2, 9, a storage cartridge 10, including: a storage cartridge housing 12, 14 having: a *single* tape access window 25, a single supply reel 200 rotatably disposed within the storage cartridge housing and having storage tape 450 wound on the supply reel 26, and at least one guide surface, 501, disposed within the storage cartridge housing, wherein the guide surface is positioned within the storage cartridge housing to guide the storage tape away from the supply reel and then back to reengage tape of the supply reel before extending to the access window, as shown in FIG. 9 having a double layer 453, 454 of tape passing over the guide surface 501 (see also col. 7, line 55 to col. 8, line 9).

Vanderheyden et al is silent as to the details of a tape drive, however, Hentrich discloses a conventional drive known in the art to be utilized with single reel tape cartridges, as shown mainly in FIG. 1, including: at least a first guiding element 36, a data transducer 14, and a take-up reel 16, wherein the storage tape 28 would extend from the supply reel 26 to the guide surface 32 before extending through the access window 40 to the first guiding element, and the storage tape 28 is guided within the tape drive 10 along a tape passing adjacent a data transducer 14, and wound on the take-up reel 16, wherein the storage tape passes adjacent the data transducer 14 along the tape path between the first guiding element 36 and the take up reel 16, as known in the art and shown by Hentrich. From this teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the cartridge of Vanderheyden et al in a tape drive as disclosed by Hentrich. The motivation would have been: utilizing the tape cartridge of Vanderheyden in the conventional tape drive of Hentrich, would

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have been readily provided, as the buckler provided in the tape drive reduces the force necessary to insert the cartridge into the receiver, and allows for better control over the eject speed and the eject distance of the cartridge (see Abstract).

Further, Vanderheyden et al is considered to further show (as per claim 14) wherein the guide surface 501, includes a stationary surface; (as per claim 15) wherein the guide surface includes a contoured surface, i.e., arcuate; (as per claim 16) wherein the storage cartridge housing includes "only a single opening" wherein the storage tape is accessible, 25; Hentrich is further considered to show (as per claim 17) wherein the data transducer 14 includes at least one of a read head and a write head; and (as per claim 19) wherein the storage tape includes a leader block 32 adapted to be releasably attached to the take-up reel, which would be necessarily a part of every tape cartridge for proper operation.

As the method claims, i.e., 29, 31-32, 35, define similar but broader limitations to the apparatus claims defined above, the method claims, in so far as they define clear method steps, they are rejected under the same grounds. With respect to claim 34, Vanderheyden et al is further considered to show that when streaming the storage tape, the storage tape becomes separated from the reel by a thin layer of air, as shown in the figures.

With respect to claims 13 & 30, while the above description was mainly directed to FIGs. 1 & 2, FIG. 6 of Vanderheyden et al discloses additional guide surfaces including 510, 512 (shown, but not labeled in FIG. 9). Because surface(s) 510, 512 are cylindrical, it would have been easily contemplated by a skilled artisan to have been either stationary or rotatable, therefore, it would have been obvious, wherein the advantages of both would have been equally considered and either could have been utilized, e.g., a fixed surface would have been less expensive to

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manufacture, while a rotatable type would have reduced friction between the moving tape and the surface, as would have been readily apparent to a skilled artisan.

Allowable Subject Matter

5. Claims 38-42 are allowable over the prior art of record.

Response to Amendment/Arguments

6. Applicant's arguments filed 1/4/08 have been fully considered but they are not persuasive.

A...Applicants' submit that "The recited features of a cartridge housing having "only a single access window for allowing a tape drive access to the storage tape wound on the supply reel for reading or writing to the storage tape," are not disclosed or reasonably suggested by the combination of Vanderheyden and Hentrich. In particular, Hentrich clearly shows in Fig. 9 that cartridge 10 includes two access windows for accessing the storage tape 450. Specifically, Fig. 9 clearly discloses access window 25 as well as a second access window (not separately numbered in Fig. 9) for streaming tape 450 from cartridge 10 to the drive takeup spool. Accordingly, Vanderheyden fails to disclose or suggest a housing having only a single access window for accessing the storage tape therein as recited by claim 12."

The Examiner does not find this argument persuasive. It is noted that Hentrich's FIG. 9 does not depict any details to an access window. Referring to Vanderheyden's FIG. 9, however, the Examiner can still only identify a single access window 25. There does not appear to be a second access window anywhere disclosed in Vanderheyden either. The Examiner maintains

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that Vanderheyden's access window 25 is the only one disclosed and the rejection is retained pertaining to this limitation.

B...Applicants resubmit that "the combination fails to disclose or suggest a tape path as recited, e.g., passing adjacent a data transducer between a first guiding element (of the tape drive) to the take-up reel, as the reading and writing operations of the Vanderheyden cartridge 10 occur via tape head receiving portion 25 as clearly described."

The Examiner maintains that that the combination of Vanderheyden in view of Hentrich is proper. The Examiner refers to FIG. 9 of Vanderheyden, a single reel cartridge, and there does not appear to be a description of a single reel tape cartridge in combination with a tape drive in Vanderheyden, thus the Examiner uses Hentrich to show a well known single reel tape drive in conjunction with a single reel tape cartridge. The Examiner considers that the single reel cartridge disclosed by Vanderheyden will operate in a known prior art tape drive as shown by Hentrich, as described in the rejection. It is also of the Examiner's opinion that Hentrich's tape drive configuration is equivalent to the tape drive as shown in the instant application's FIG. 1, and therefore, the claimed tape drive does not appear to have any additional inventive limitations.

Conclusion

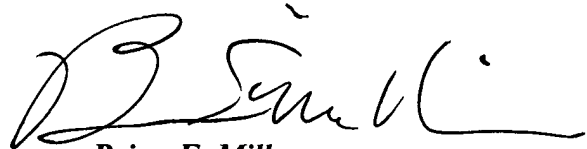
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Miller whose telephone number is (571) 272-7578. The examiner can normally be reached on M-TH 6:30am-4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "B. Miller", with a stylized flourish at the end.

Brian E. Miller
Primary Examiner
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BEM
January 21, 2008